

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NORTH JERSEY MEDIA GROUP INC.,	:	
	:	
	Plaintiff,	:
-against-	:	13 Civ. 7153 (ER)
	:	
FOX NEWS NETWORK, LLC,	:	ECF Case
	:	
	Defendant.	:
	:	

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NORTH JERSEY MEDIA GROUP INC.,	:	
	:	
	Plaintiff,	:
-against-	:	14 Civ. 7630 (ER)
	:	
FOX NEWS NETWORK, LLC AND	:	ECF Case
JOHN DOE NOS. 1 – 5,	:	
	:	
	Defendants.	:
	:	

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NOTICE OF MOTION *IN LIMINE* OF PLAINTIFF TO
EXCLUDE EVIDENCE OFFERED TO PROVE
FAIR USE BASED UPON AN ANALOGY

PLEASE TAKE NOTICE that, upon the annexed declaration of William Dunnegan, sworn to January 11, 2016, and all prior proceedings in this action, plaintiff North Jersey Media Group Inc. will move this Court before Hon. Edgardo Ramos, United States District Judge, in Courtroom 619, Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007, at a date and time to be set by the Court, for an order:

(a) Pursuant to Rules 402 and 403 of the Federal Rules of Evidence, precluding defendant Fox News Network, LLC (“Fox News”) from making any evidence or argument that Fox News’ use of the Pirro Image and/or the Baier Image was fair use based upon an analogy to conduct of NJMG and/or Thomas E. Franklin with respect to another work; and

(b) Pursuant to Rule 402 and 403 of the Federal Rules of Evidence, excluding Fox News' Exhibits 339, 340, 371, 372, 373, 385, 386, and Fox News Deposition Exhibit 47 on the ground that they are not relevant to prove fair use or, alternatively, that their relevance is substantially outweighed by their risk of confusion and unfair prejudice; and

(c) Granting such other and further relief as this Court may deem just and proper.

Dated: New York, New York
January 11, 2016

DUNNEGAN & SCILEPPI LLC

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